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INTERVENTION

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September 27, 2002

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 Arizona Corporation Commission
 1200 W. Washington
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Arizona Corporation Commission
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Re: Docket No. E-01345A-02-0707
 In the matter of Application of Arizona Public Service Company

Dear Ms. Ryan:

Enclosed for filing in the above-captioned proceeding are the original and thirteen (13) copies of Southwestern Power Group, II., L.L.C. and Bowie Power Station L.L.C.'s Application for Leave to Intervene. Also enclosed are two additional copies to be conformed and returned to our office.

Please let me know if you have any questions, and thank you for your assistance.

Sincerely,

Lawrence V. Robertson, Jr.

LVR:cl
 enclosures

INTERVENTION

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER

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IN THE MATTER OF THE)
APPLICATION OF ARIZONA PUBLIC)
SERVICE COMPANY FOR AN ORDER)
OR ORDERS AUTHORIZING IT TO)
ISSUE, INCUR, OR ASSUME)
EVIDENCES OF LONG-TERM)
INDEBTEDNESS; TO ACQUIRE A)
FINANCIAL INTEREST OR INTERESTS)
IN AN AFFILIATE OR AFFILIATES; TO)
LEND MONEY TO AN AFFILIATES OR)
AFFILIATES; AND TO GUARANTEE)
THE OBLIGATIONS OF AN AFFILIATE)
OR AFFILIATES)

Docket No. E-01345A-02000007

APPLICATION FOR LEAVE TO INTERVENE

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Pursuant to A.A.C. R14-3-105 and the Chief Administrative Law Judge's September 24, 2002 oral procedural directive, Southwestern Power Group II, L.L.C. and Bowie Power Station, L.L.C. (collectively "SWPG/ Bowie"), by and through their undersigned attorney, hereby submit this Application for Leave to Intervene ("Application") in the above-captioned proceeding. In support of the Application, SWPG/ Bowie represent the following:

I.

IDENTITY OF APPLICANTS

SWPG and Bowie are limited liability companies organized under the laws of the State of Delaware, and are qualified to do business in Arizona. Bowie is a wholly-owned subsidiary of

1 SWPG. Bowie has been granted a Certificate of Environmental Compatibility by the Arizona Power
2 Plant and Transmission Line Siting Committee and the Commission authorizing the siting and
3 construction of a 1000 MW (nominal) natural-gas fired, combined cycle electric generation station
4 near Bowie, Arizona. Electric power and energy produced at that facility is expected to be sold into
5 the competitive wholesale electric market. SWPG also is in the process of endeavoring to obtain the
6 necessary approvals for an 1800 MW (nominal) natural gas-fired, combined cycle electric generation
7 station which would be located in the vicinity of Toltec, Arizona. Capacity and energy from that
8 facility are also expected to be sold into the competitive wholesale electric market.
9

10
11 SWPG/ Bowie have been active participants during the past year in proceedings before the
12 Commission relating to the Commission's ongoing efforts to restructure the electric utility industry
13 in Arizona, and facilitate the development of a competitive wholesale electric market. These
14 proceedings have included both the Track "A" and Track "B" phases of the Commission's Generic
15 Proceedings Concerning Electric Restructuring Issues (Docket No. E-00000A-02-0051), Arizona
16 Public Service Company's Request for Variance (Docket No. E-01345A-01-0822) and Tucson
17 Electric Power Company's Application for Variance (Docket No. E-01933A-02-0069). Their
18 interest has been, and continues to be, in any Commission proceedings and decisions which may
19 have an effect upon the development of a competitive wholesale electric market in Arizona, and the
20 ability of unaffiliated competitors such as SWPG/ Bowie to effectively compete therein.¹
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25 ¹ As used herein, the term "unaffiliated" refers to wholesale electric generation entities who do not
26 have a corporate or financial affiliation with an Arizona Utility Distribution Company that will be
27 procuring electric power and energy from the competitive wholesale electric market pursuant to the
28 Track "B" process.

II.

NATURE OF APPLICANTS' INTEREST

The above-captioned proceeding is one in which SWPG/ Bowie have an interest. Pinnacle West Energy Corporation ("PWEC") was specifically formed for the purpose of competing as a wholesale electric generator in the competitive wholesale electric market being developed in Arizona and other western states. Pinnacle West Capital Corporation ("Pinnacle West") is the parent company of both PWEC and Arizona Public Service Company ("APS"). Thus, PWEC and APS are affiliated with one another, and PWEC is an affiliated competitor in the same competitive wholesale electric market in which SWPG/ Bowie will compete.

By means of its September 16, 2002 Application, APS is requesting several financing approvals and authorizations from the Commission. These include the following:

- "(a) authorizing APS to assume, issue, or incur up to \$500,000,000 in aggregate principal amount of Recapitalization Debt (as discussed and defined herein) in connection with the refinancing or recapitalization of costs incurred by Pinnacle West Capital corporation ("Pinnacle West") and Pinnacle West Energy Corporation ("PWEC") in the financing of PWEC's construction of West Phoenix CC Units 4 and 5, Redhawk Units 1 and 2, and Saguaro CT Unit 3 (collectively referred to as the "PWEC Assets");

* * *

- "(c) authorizing APS to guarantee the obligations (including principal, interest, and associated fees, charges and expenses) of PWEC and /or PWCC ("APS Guarantees") up to an aggregate principal amount of \$500,000,000 (less any Recapitalization Debt) for a period not to exceed a weighted average life of 10 years; . . ."

[APS Application at page 1, lines 16-19.5 and lines 22-24, respectively]

1 APS' reasons for seeking approval and authorization to extend its financial resources and
2 credit to PWEC and Pinnacle West are stated elsewhere in its September 16, 2002 Application.

3 They include the following:

4
5 "With no divestiture, or no prospect of a long-term purchase power
6 agreement. . . PWEC is simply not creditworthy under present market
7 conditions absent credit support from APS." [APS Application at
8 page 4, lines 18-21] [emphasis added]²

9 "Without permanent financing in place and with no potential to obtain
10 financing on commercially reasonable terms, if at all, PWEC cannot
11 effectively compete in the competitive wholesale market under the
12 present credit constraints in that market." [APS Application at page
13 14, lines 1-3] [emphasis added]

14 "Exhibit F indicates that APS can accommodate the increased debt
15 authorization sought by the Application without a loss of the
16 Company's overall credit quality or debt rating. Such debt would
17 have an immaterial effect on the Company's cost of capital." [APS
18 Application at page 14, lines 20-23] [emphasis added]

19 In effect, what APS is proposing is to use its financial resources and credit to prop up its
20 wholesale electric generation affiliate, in order that its affiliate may more effectively compete in that
21 competitive wholesale electric market which will seek to serve APS' "contestable load" pursuant to
22 the procurement process which is being developed in Track "B". In this regard, APS blandly states

23
24 "APS also wishes to make clear that this Application does not affect
25 nor is it intended to affect the Commission's consideration of, or the
26 Company's position on, any of the "Track B" issues identified in
27 Commission Docket No. E-00000A-02-0051. This too was an

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² It should be noted that those same "present market conditions" confront unaffiliated wholesale competitors as well, including those who will endeavor to actively participate and compete in the competitive procurement process being developed in Track "B" of the generic electric restructuring proceeding.

1 express part of the Commission's order in Decision No. 65154. (Id.
2 at pp. 33-34, Tenth Ordering Paragraph.)"³

3 However, despite such "reassurance," the reality is that the approvals and authorizations APS seeks
4 through its Application would affect (i) the competitive procurement process resulting from Track
5 "B" and (ii) the competitive posture of those unaffiliated competitors participating therein. In this
6 instance, use of APS' financial resources and credit in the manner proposed would clearly and
7 inevitably "tilt" the competitive playing field in favor of its affiliate (PWEC) from that level that
8 would exist if, as APS alleges, that affiliate's credit rating were downgraded. That advantage could
9 skew competitive market forces that would otherwise operate. Also, with APS being in the position
10 of a creditor of PWEC, it should be noted that there would be a risk that APS would be biased in
11 favor of PWEC in the competitive solicitation, given PWEC's need for revenues to service the
12 loan(s) or loan guarantee(s) from APS.
13

14
15 As a consequence, SWPG/ Bowie will be "directly and substantially affected by the
16 proceedings" herein in question in the manner contemplated by A.A.C. R14-3-105(A). Moreover,
17 SWPG/ Bowie's intervention and participation would not unduly broaden the issues which have
18 been presented by the September 16, 2002 Application. How Pinnacle West and PWEC came to be
19 in the circumstances of which they and APS now complain, and whether or not those circumstances
20 are the result of a Commission "reversal of course" or other factors, is one category of issues.
21 Another category of issues pertains to what would be the results and effects of Commission approval
22 of APS' requests and prayer for relief on the results of the Track "B" process and the Commission's
23
24

25 ³ It should be noted that the Tenth Ordering Paragraph refers to an application to acquire PWEC's
26 generating assets which APS has acknowledged it has not made to date, and did not make within the
27 time period specified in Decision No. 65154.

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1 efforts to develop a competitive wholesale electric market. When viewed in that latter context, it is
2 patently evident that SWPG/ Bowie and other merchant plant generators will be "directly and
3 substantially affected by the proceedings" to be conducted in the instant docket.
4

5 WHEREFORE, SWPG/ Bowie request that the Chief Administrative Law Judge or
6 Commission enter an order granting this Application for Leave to Intervene, thereby according to
7 SWPG/ Bowie all rights of participation in the above-captioned proceeding as a party of record.
8

9 Dated this 26TH day of September, 2002.

10 Respectfully submitted,
11

12
13 By: Lawrence V. Robertson, Jr.
14 Lawrence V. Robertson, Jr.
15 Munger Chadwick, P.L.C.
16 Attorneys for Southwestern Power Group II,
17 L.L.C. and Bowie Power Station, L.L.C.
18

19 The original and ten (13)
20 copies of the above Application
21 for Leave to Intervene was filed
22 on September 27, 2002 with
23 Docket Control.
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28

1 Copies were hand-delivered, e-mailed,
2 or mailed to the following individuals:

3 Lynn Farmer
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